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July 3, 2020

VIA ECF

The Honorable Paul G. Gardephe
United States District Court Judge
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Tucker v. Abercrombie & Fitch Co.*,
Case No.: 19-cv-10032-PGG

Dear Judge Gardephe,

The undersigned represents Henry Tucker, on behalf of himself and all other persons similarly situated (“Plaintiff”) in the above-referenced action against Abercrombie & Fitch Co., (“Defendant”). The undersigned respectfully requests a stay in this action pending resolution of the Consolidated Appeal captioned: *Mendez v. AnnTaylor, Inc.*, No. 20-1550 (the “Consolidated Appeal”), currently pending before the Second Circuit. The Defendant joins in this stay request and the Court should stay this matter pending the outcome of the Consolidated Appeal to preserve judicial resources.

A stay has the potential to substantially conserve the resources of both the parties and the Court. Similar stays were granted by courts in this District on the same grounds. *See Calcano v. lululemon USA Inc.*, No. 1:19-cv-10430 (S.D.N.Y. Mar. 2, 2020); *Delacruz v. Five Below, Inc.*, No. 1:19-cv-10294 (S.D.N.Y. Feb. 28, 2020); *Delacruz v. Jamba Juice Co.*, No. 1:19-cv-10321 (S.D.N.Y. Feb. 27, 2020); *Calcano v. Domino’s Pizza, Inc.*, No. 1:19-cv-09823 (S.D.N.Y. Feb. 24, 2020) *Tucker v. Whole Foods Market Group, Inc.*, Case No.: 19-cv-09842-RA. (S.D.N.Y. Jul. 1, 2020). The only deadlines impacted by the proposed stay are the deadlines the Court established on March 10, 2020 when it scheduled a Status Conference on August 6, 2020 at 10:30 AM. (Dkt. 19).

We thank the Court for its time and attention in this matter.

cc: all counsel of record VIA ECF

Respectfully submitted,

/s/ Jeffrey M. Gottlieb, Esq.

Jeffrey M. Gottlieb, Esq.

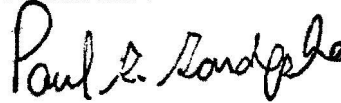
Attorney for Plaintiffs

On April 23, 2020, Judge Woods granted the defendant's motion to dismiss in a case presenting substantially the same legal issues. See *Dominguez v. Banana Republic, LLC*, 1:19-cv-10171-GHW, 2020 WL 1950496 (S.D.N.Y. Apr. 23, 2020). The plaintiff in that case has appealed, and the Second Circuit recently issued an order consolidating this appeal with several similar appeals, and confirming that an expedited briefing schedule will apply. See June 24, 2020 Order (Dkt. No. 32), *Dominguez v. Banana Republic, LLC*, No. 20-1559 (2d. Cir. 2020).

Accordingly, it is hereby ordered that this action is stayed pending resolution of the appeals in the Banana Republic and consolidated cases. Defendant's motion to dismiss is denied without prejudice to renewal once the appeals are resolved.

The parties are directed to file a joint status letter by September 1, 2020, or within seven days of a Second Circuit opinion, whichever occurs first. The Clerk of the Court is directed to terminate the motion (Dkt. No. 20). The conference in this action scheduled for August 6, 2020, is adjourned to October 8, 2020 at 10:30 a.m.

SO ORDERED.



Paul G. Gardephe
United States District Judge
July 20, 2020